

Exhibit E
Transcript of Walker County Civil Service Board
Hearing dated 10/26/04
(Part III)

1 million dollars to even get it fixed in a straight
2 position. I decided that I didn't want to walk around
3 with it like that. He couldn't fix it unless he fixed
4 it straight. I said this is causing me so much pain
5 that I left it up to him to make a decision, and he said
6 the best decision he could come up with -- he don't like
7 taking parts off of people. He explained that very,
8 very well to me. He does not like having to take toes
9 or fingers or whatever off of nobody. If he can save
10 them, that's what he's there for. He said the best
11 thing was to remove it or I would have more trouble and
12 more trouble out of it.

13 Q. Do you have any use of your small finger and
14 the next to the last finger there?

15 A. I got a little use in this one here and a
16 little bit in those.

17 Q. Now, prior to this incident --

18 A. I got to where I can move this one some.
19 You see, it needs another surgery.

20 Q. Prior to this incident, did you have full
21 use of all four fingers?

22 A. I had some. I didn't have all the good use
23 of them. I'm just glad he didn't break my good hand.

24 Q. You didn't have all -- you didn't have full
25 use of all four fingers on that hand?

1 A. I had all four fingers in contact, you know,
2 they were there.

3 Q. You've been injured before on that arm is
4 what you're testifying to?

5 A. Yes. I got cut right there (indicating).

6 Q. All right. And as a result of that cut you
7 lost some use of those fingers; is that correct?

8 A. Right.

9 Q. But you could still use them, they were
10 still functional?

11 A. I could pick up a little. I could pick up
12 maybe about five -- maybe four or five pounds with my
13 little finger.

14 Q. Let me ask you this: Did Mr. Ingle -- was
15 he aware that you had limited use of your right arm and
16 your right hand?

17 A. I don't know what he knew. He never asked
18 me nothing. He didn't know my condition, and like I
19 said, all he knew, he knew something was the matter with
20 my right arm.

21 Q. When you left the jail that day, were you
22 given anything or told what you were being charged with?

23 A. Yes. I was being charged with disorderly
24 conduct in bed asleep and resisting arrest.

25 Q. Resisting arrest and disorderly conduct, all

1 right.

2 A. While I'm at home asleep.

3 Q. My next question is when you moved from
4 Carbon Hill -- now, you heard Ms. Haley testify that
5 most of those charges over there were dismissed. Now,
6 she said that there was an agreement reached between the
7 prosecutor, yourself, and another party; what was that
8 agreement?

9 A. Steven Thomas told me --

10 Q. That was the judge?

11 A. Right.

12 Q. So what was the agreement?

13 A. If I moved -- I got tired of going to jail.
14 Been taking me to jail all the time, going to jail. I
15 got tired of going to jail, and I realized -- I wanted
16 to stay where I was at, and that Judge said -- I can't
17 beat the police.

18 Q. What was the agreement?

19 A. For me to move and he would drop all the
20 charges.

21 Q. Now, how long had you lived in that house?

22 A. Sixteen years.

23 Q. How many acres did you have?

24 A. I lived there four years --

25 Q. How many acres did you have?

1 A. I just had two lots.

2 Q. Two lots. Did you have a garden?

3 A. I tried to have one. A friend helped me.
4 He passed away, and I can't do it.

5 Q. So you had to put your house on the market
6 and sell it?

7 A. Not really. It was mine and it was paid
8 for, but I sold it. I didn't have to put it on the
9 market.

10 Q. You sold it?

11 A. I sold it to some people about a block away
12 that needed it. They were hunting a place for a
13 trailer, their daughter was, and so I sold it to her.

14 Q. Okay. Did you get a good market price for
15 it?

16 A. Pretty decent price.

17 Q. Did you get the market value for it?

18 A. Yes.

19 Q. Did you want to move or did you feel like
20 you had to move?

21 A. No. I had a wonderful place. Why would I
22 want to move from a pretty place to an ugly place I'm at
23 now.

24 Q. So you live in a trailer now?

25 A. In a cheap trailer.

1 MR. PIAZZA: I think that's all the
2 questions I have for the time being.

3 THE COURT: Do y'all want to continue on
4 with cross right now? Does anybody need to take a
5 break?

6 (Short break.)

7 CROSS-EXAMINATION

8 BY MR. WILLFORD:

9 Q. Good evening, Mr. Burch. You had testified
10 in your direct that you had been drinking, and I'm going
11 to talk about -- I guess this happened -- it was
12 actually the morning of the 16th, correct?

13 A. Correct.

14 Q. Early in the morning of the 16th?

15 A. I didn't get home to about 9:30 or 10:00.

16 Q. That would have been on the 15th, correct?

17 A. Right.

18 Q. And you testified that you drank, you said,
19 about four beers, correct?

20 A. (Witness nods head.)

21 Q. When did you start drinking those beers?

22 A. As soon as I got home.

23 Q. So that would have been about 9:30 --

24 A. Something like that.

25 Q. -- that about right? And when would you

1 have finished the last one?

2 A. Somewhere about 12:30, I guess.

3 Q. Okay. So between 9:30 and 12:30 you drank
4 four beers?

5 A. That's all I had in the refrigerator.

6 Q. That's all you had in the refrigerator. Did
7 you drink anything besides beer that night?

8 A. Other than meat I eat and I had drank some
9 milk.

10 Q. Let me ask that question a better way. Did
11 you drink anything else alcoholic besides beer?

12 A. No.

13 Q. So four beers. Were you on any kind of
14 medication at that time?

15 A. Sure.

16 Q. What kind of medication were you on?

17 A. Some pain pills.

18 Q. Do you know what kind of pain pills they
19 were?

20 A. Darvocet 500 milligrams.

21 Q. And had you taken any of those Darvocets
22 that day?

23 A. When I got home I took one.

24 Q. You took one at 9:30; is that correct?

25 A. Yes.

1 Q. And then you started drinking your beer at
2 9:30, correct?

3 A. I was hurting.

4 Q. How many of those Darvocets did you take?

5 A. One.

6 Q. One Darvocet. Between 9:30 and the time
7 Deputy Ingle got there, did you take any more of those
8 Darvocets?

9 A. No.

10 Q. Did you take any other kind of pain
11 medication?

12 A. No.

13 Q. Did you take any other kind of medication,
14 period, between 9:30 and when Deputy Ingle got there?

15 A. No, sir.

16 Q. Had you taken any other kind of medication
17 that day --

18 A. Yes.

19 Q. -- before 9:30?

20 A. Yes.

21 Q. What had you taken?

22 A. I had taken two different kinds of heart
23 medication, Altace -- anyway, I brought all my medicines
24 with me in case I couldn't pronounce the word.

25 Q. Okay. But that was for your heart, correct?

1 A. Yeah. I had my daily script, I got to go
2 get my heart medicine, blood pressure medicine. I have
3 to take one cramp pill and --

4 Q. One what kind of pill? I'm sorry, I didn't
5 hear that.

6 A. Cramp.

7 Q. Cramp pill, okay.

8 A. That time I thought I had --

9 (Short interruption.)

10 Q. Now, while we were changing the tape you
11 pulled an Albuterol inhaler out of your pocket?

12 A. Yes.

13 Q. And you were taking the Albuterol on the
14 15th of February?

15 A. That's all the medicine I had.

16 Q. Okay. And you had taken some of that
17 Albuterol that day?

18 A. I have to take two aspirin too everyday,
19 baby aspirin.

20 Q. Do you recall reading the label on that
21 Darvocet that you took?

22 A. Yes.

23 Q. Did it say anything about drinking alcohol
24 with that medication?

25 A. It said it would enhance the effects of it.

1 Q. And you drank a beer anyway?

2 A. I drank beer and took one of them.

3 Q. Did it enhance the effects?

4 A. Pain was still hurting.

5 Q. Did you take any other kind of drugs?

6 A. No, sir.

7 Q. Anything that would be illegal?

8 A. No, sir. The doctor said take one if you
9 want to.

10 MR. PIAZZA: Taz, just answer his
11 questions.

12 Q. Now, I think you testified that you got into
13 a little argument with your wife, is that correct, after
14 you got home?

15 A. Nicky nack.

16 Q. Nicky nack.

17 A. Nicky nack.

18 Q. Do you remember I think you testified it
19 was about her wanting to go to bed and you not wanting
20 her to go to bed?

21 A. Yes. I wanted her to stay up with me. She
22 wanted to go to bed. I decided -- I don't know why, I
23 have a bad habit of calling 911 when I lived where I
24 did. Lived for 15 years over there trying to get that
25 farm moved. I went to jail over one of them phone calls

1 trying to get the farm moved, but I just had grown a bad
2 habit of dialing 911. And they told me at mental health
3 that I had bipolar disorder. It would cause me to do
4 stuff like that. Silly stuff. Never really hurt
5 nobody.

6 Q. Was that the only thing that you were
7 arguing about was her staying up?

8 A. Yes. I wanted her to stay up with me and
9 she won't.

10 Q. And so you called 911 because of that?

11 A. Yeah. I said, "Well, I'm going to bed." I
12 hung the phone up and she got on the other phone, was
13 talking, said, "We don't need nobody out here. We're
14 not fighting. He is going to bed."

15 Q. All right. Do you recall telling the
16 dispatcher you wanted her out of your house?

17 A. Yes, sir.

18 Q. Why did you want her out of the house if you
19 wanted her to stay up with you?

20 A. I reckon I stayed up farting around and
21 stupid.

22 Q. Okay.

23 A. Just stupid, something stupid. It was no
24 meaning to it at all.

25 Q. Do you recall telling her or telling the

1 dispatcher that you were going to hit your wife if they
2 didn't come get her out?

3 A. I wouldn't hit her for a million dollars.

4 Q. That wasn't my question. Did you tell the
5 dispatcher that you were going to hit her if they didn't
6 come get her out of your house?

7 A. No, I never told the dispatcher I was going
8 to hit her.

9 Q. You never told the dispatcher that?

10 A. No.

11 Q. You never told the dispatcher that?

12 A. I didn't tell them that I was going to hit
13 her.

14 Q. I'm not talking about her. Did you tell the
15 dispatcher that you were going to hit your wife?

16 A. I never hit her and I never will.

17 Q. You're not answering my question.

18 A. I didn't tell the dispatcher I was going to
19 hit her.

20 Q. Okay. That's the answer.

21 A. It never crossed my mind.

22 Q. You said just a minute ago that you had been
23 diagnosed as being bipolar?

24 A. Yes, and schizophrenia.

25 Q. Do you take any kind of medication for that?

1 A. Yes, I was taking it.

2 Q. Were you taking it that night?

3 A. Look that stuff made me so goofy, I just
4 laid off of it because I can't walk around on -- I got
5 to be at myself.

6 Q. Listen to my question. Did you take any of
7 that medication for your bipolar disorder that night,
8 February 15?

9 A. No.

10 Q. How long had you been off of it on February
11 15?

12 A. Pretty good while.

13 Q. Months?

14 A. Everything they give me didn't have my name
15 on the label or how --

16 MR. PIAZZA: Just answer his question.

17 A. It came in boxes --

18 MR. PIAZZA: Taz, just answer his question.

19 A. Give me so much of it I just throwed it
20 away.

21 Q. How long had you been off of it on February
22 15?

23 A. I couldn't tell you that. I can't remember
24 days.

25 Q. Was it months, was it a period of months?

1 A. Probably a month.

2 Q. A month?

3 A. Something like that.

4 Q. Did you tell your doctor you were getting
5 off the medication?

6 A. No. I hadn't got in touch -- I went down
7 and got in touch with him. He was supposed to write my
8 lawyer a letter explaining my condition that I didn't
9 know I had. He said he would. I don't know if he sent
10 it to him.

11 Q. What's that doctor's name?

12 A. David Dixon.

13 Q. Dennison?

14 A. David Dixon.

15 Q. So you're not on any kind of medication for
16 your bipolar disorder now?

17 A. Correct. I'm on medicine for it.

18 Q. You are now?

19 A. Yes.

20 Q. Today?

21 A. That's right. I got -- I didn't even have a
22 doctor to go to besides the Oakman Clinic and mental
23 health, but I got on this H.M.O. I got Dr. Tai, is my
24 family doctor. Since this happened I have been seeing
25 Dr. Miller over here. He's an orthopaedic specialist.

1 Q. Okay. But you now today are taking
2 medication for your bipolar disorder; is that correct?

3 A. Right. You say I take it -- I take three
4 Xanax tens a day.

5 Q. Do you take anything else?

6 A. Three pain pills a day, Lortab 50.

7 Q. Have you taken those pills today?

8 A. I took one when I get up and one of my cramp
9 pills and my heart medication, and I took one of Xanax
10 and the cramp pill at around 12:00.

11 Q. And have you had anything to drink alcoholic
12 today?

13 A. Coming down here, no.

14 Q. Just want to make sure we weren't
15 exacerbating any effects.

16 Have you ever been voluntarily committed to
17 a mental institution?

18 A. Not that I recall. I did check myself into
19 Pierson Hall.

20 Q. When was that?

21 A. Stayed 33 days.

22 Q. When?

23 A. I can't remember the date of that. Let's
24 see. Somewhere in '97 -- '96 to '97, somewhere in
25 there. Social Security office sent me there.

1 Q. Okay. I want to make sure I understand the
2 sequence as far as the call to 911 is concerned, that
3 morning of the 16th. You said you got into a little bit
4 of a -- I think you phrased it as a nick nack with your
5 wife about her not wanting to stay up with you, right?

6 A. No screaming, no fussing, no hollering, no
7 fighting, just talking like you're talking to me.

8 Q. So you called 911, correct?

9 A. It was a bad habit I have.

10 Q. And you told them that you wanted her out of
11 your house, correct?

12 A. Well, I told her that but, you know, she
13 said something and I said, "Well, I don't blame you.
14 You're my wife." She spent the night with me, and she
15 plainly told him we didn't need --

16 Q. We're not to that point yet, Mr. Burch,
17 we're not to that point yet. I'll get to it in a
18 minute.

19 A. She's still with me. I ain't never hit
20 her.

21 Q. And you went to bed right after that
22 conversation with 911, correct?

23 A. She was on the phone with them trying to
24 tell them we didn't need no officer out here and
25 everything was fine.

1 Q. Why did you go to bed after that?

2 A. Because I was sleepy.

3 Q. Your were tired?

4 A. It was 3:00 o'clock in the morning, about
5 2:30.

6 Q. So you went to sleep, correct?

7 A. Yes. I was tired.

8 Q. And what was the next awareness that you
9 had? What was the next thing that you knew about?

10 A. That man right there, Derane Ingle, cussing
11 in my living room, screaming and cussing and hollering
12 at my wife, hollering at me to get out of bed, you come
13 in this living room.

14 Q. Did he come into your bedroom?

15 A. He didn't come down to the bedroom. He just
16 kept staying in the living room.

17 Q. So when you say in your complaint that he
18 woke you, you mean by his voice; is that correct?

19 A. Bad loud voice, bang and hollering. It
20 scared my wife, and I didn't know what in the world was
21 breaking lose in there, but he was hollering.

22 Q. What specifically did he say?

23 A. Well, to me at that time the only words he
24 said to me when I said --

25 Q. I'm not asking what he told you. You said

1 that you woke up when you heard him out in your living
2 room. What did you hear him say?

3 A. I didn't hear what he said after that.
4 You'll have to ask my wife because she met him outside.

5 Q. Okay. So then at that point you got up and
6 went out in the living room to see what was going on,
7 correct?

8 A. He followed her in the house. She thought
9 he was going to leave and he barged right in behind her,
10 didn't ask could he come in. He just barged on in
11 behind her.

12 Q. But you didn't see that, did you?

13 A. She did.

14 Q. I'm asking you what you saw. You didn't see
15 that.

16 A. I didn't see it. He was the first face I
17 seen when I come out of my bedroom, standing up, jumping
18 up and down in my bedroom raising all kind of --

19 Q. Follow my question, Mr. Burch. You heard
20 the noise out in the living room. Then you got up to go
21 see what was going on, correct?

22 A. Right.

23 Q. When you got out into the living room, what
24 did you see?

25 A. I seen him standing in the middle of my

1 living room, and he said, "Your ass is going to jail."
2 And he reached behind Patsy and sprayed me with that
3 stuff. Didn't tell me why I was going to jail, and I
4 didn't know until John Mark got back to work.

5 Q. How did you come out of the bedroom?

6 A. Well, I come out of my bedroom and walked up
7 the hallway. It's got a hallway in the trailer in there
8 to the living room.

9 Q. Did you run?

10 A. No.

11 Q. Where were your hands?

12 A. When I came in there my hand was just like
13 this (indicating), and I was standing there in my
14 underwear.

15 Q. You walk like this?

16 A. I had my hands just like this (indicating).

17 Q. When you were walking up towards him you had
18 your hands like this?

19 A. I was walking down the hallway like this
20 (indicating), and I put my hands like this thinking, oh,
21 me, you know.

22 Q. All right. I think you testified that you
23 had a bandage on your right hand, correct?

24 A. I had it on that Sunday the 15th.

25 Q. For the thumb?

1 A. I had a fracture here. I was trying to
2 tighten up a pipe on the water heater. It was leaking,
3 and the wrench slipped, and I hurt -- fractured my thumb
4 trying to push on it with both hands. I ain't got a
5 whole bunch of use with this hand.

6 Q. Did it actually break the bone?

7 A. It shows on the x-ray right here or right
8 here one, one knuckle is barely fractured, and I kind of
9 figure you're going to use this saying my hand was
10 already hurt.

11 Q. Let me show you if I can -- do you recognize
12 this?

13 A. Yeah, I reckon I do.

14 Q. What is that?

15 A. That's the complaint.

16 Q. That's the complaint you filed that started
17 this grievance here today, correct?

18 A. That's correct.

19 Q. Did you prepare this yourself?

20 A. No, I didn't.

21 Q. Is that your signature there on the second
22 page?

23 A. That's correct.

24 Q. Taz D. Burch. Who prepared this for you?

25 A. Bank of Carbon Hill.

1 Q. The Bank of Carbon Hill wrote this?

2 A. (Witness nods head.)

3 Q. Who at the Bank of Carbon Hill wrote this?

4 A. A Notary Public.

5 Q. Did she notarize it, the Notary Public at
6 the Bank of Carbon Hill?

7 A. She should have.

8 Q. Okay. You're saying -- there's supposed to
9 be a notary mark on here, correct?

10 A. Yes.

11 Q. What I'm asking you is who wrote this, not
12 who notarized it, but who wrote this?

13 A. All I can tell you the banker's secretary.

14 Q. How did the banker's secretary know what to
15 say in here?

16 A. Because I already had it jibbered down on
17 paperwork for her to go over.

18 Q. Okay. So you wrote it down, you handwrote
19 it?

20 A. Correct.

21 Q. And she typed it into that?

22 A. Yes.

23 Q. Is that right?

24 A. Correct.

25 Q. Okay. And did she put down then in here

1 everything that you said in your handwritten notes?

2 A. I don't know if he's got that -- that may be
3 a copy. I don't remember, but I think she pretty -- I'm
4 pretty well sure she notarized it and didn't charge me
5 for doing it, but she said she wouldn't do it again
6 because she must be some kind of kin folks with him and
7 has to work at the bank and the bank gets paid to do
8 that.

9 Q. Did she put down everything in this
10 document, this complaint, that you told her to put in
11 there?

12 A. I think she kind of mixed one thing just a
13 little.

14 Q. So she put everything in there that you had
15 in your handwritten notes, correct?

16 A. All except pushed me down in the jail and
17 throwing cold water on me.

18 Q. Okay. And the date on this is March 12,
19 2004, right? That's when you had this prepared.

20 A. Yes. It took me a little while to get --

21 Q. Okay.

22 A. -- the paperwork going.

23 Q. That's fine.

24 A. And get me a good lawyer.

25 Q. And you reviewed it before you signed it,

1 correct?

2 A. Correct.

3 Q. Signed it in front of a Notary and
4 everything on here is true and correct?

5 A. A Notary Public.

6 Q. And you understood that when you signed it
7 that everything on here was true and correct; is that
8 right?

9 A. She put her name, but it came from the Bank
10 of Carbon Hill and I think her name was Sheila. Patsy
11 can tell you who it is.

12 Q. Let me leave that and let me ask you, does
13 it say anything in there about Deputy Ingle spraying you
14 with pepper spray?

15 A. Yes. I forgot to put that in here. That
16 was one thing I forgot to put in here.

17 Q. Does it say anything in there about him
18 punching you in the ribs as he was trying to take you
19 out of the car?

20 A. I know I forgot to put him spraying all that
21 stuff on me. I meant to. Forgot to put that in there.
22 Like I said, I've got a sixth-grade education. I done
23 the best I could, and it might not be in here, but Patsy
24 seen it. It's all over the ground. It's all over me.
25 He sprayed me with it. He admitted spraying me with it.

1 That's good enough for me, but he ain't even admitted
2 spraying me with it.

3 Q. But your testimony is -- Mr. Burch, your
4 testimony is that he sprayed you basically from the
5 living room all the way out to the car and sprayed you
6 again and sprayed you in the jail?

7 A. Sprayed me in the police car, sprayed me
8 some more, sprayed -- I thought when is he going to run
9 out of spray.

10 Q. And as much as he sprayed you --

11 A. That stuff hurt.

12 Q. That wasn't something that stuck out in your
13 mind to put in your complaint?

14 A. Well, I've got a sixth-grade education and
15 I'm prone to make a little bitty mistake like that.

16 Q. Okay.

17 A. It was brought to my attention by my
18 brother, you didn't put that in there. Well, he was on
19 probation when they hired him and this happened before
20 his probation was up, and done had this so we just
21 took what I could get gathered up. I have a sixth-grade
22 education, not no high school education.

23 Q. Does that affect your ability to feel pain?

24 A. That affects my ability to write and put
25 down stuff on paper.

1 Q. Does that affect your memory?

2 A. No. I've got a good memory.

3 MR. PIAZZA: I'm going to have to object to
4 this. He's arguing with the witness.

5 THE COURT: He's just cross-examining him.
6 Let's go ahead.

7 Q. When you came out of the bedroom and saw
8 Deputy Ingle in your living room, did you tell him he
9 wasn't wanted in your house?

10 A. I didn't say that. I said, "My past has
11 come to haunt me."

12 Q. Did you ask him to leave?

13 A. I didn't have time to. He told me to sit
14 down and reached around there and sprayed me with that
15 stuff, and I couldn't see nothing, turn me around and
16 started throwing me every which way.

17 Q. So it's -- make sure I understand. The only
18 thing that you said was, "Oh, Lord, my past is coming
19 back to haunt me." You didn't say anything else?

20 A. He admitted spraying me with it. It might
21 not be in here, but he had done admitted spraying me
22 with it. I might have forgot to put it in there.

23 Q. Mr. Burch, we're moving beyond that. I'm
24 just wanting to make sure that I understand what it was
25 that you said when you came of the bedroom. The only

1 thing that you said before you got sprayed was, "My,
2 God, my past is coming back to haunt me."

3 A. "My past is coming back to haunt me." After
4 I moved away from him.

5 Q. Just like that. Did you raise your hands?

6 A. I put it over my eyes like that, and I said,
7 "Oh, me." I was in my underwear and that's all I had
8 on.

9 Q. Was your hands still over your eyes when you
10 got sprayed?

11 A. No. He hit me right square in the eyes with
12 it because I wasn't expecting it. My eyes was opened
13 that big when he hit me, but I couldn't see.

14 Q. Did you threatened to whop his ass?

15 A. He said I pushed him.

16 Q. I'm not asking you what he said.

17 A. I can't push him between my wife and him.
18 I'm not about to push my wife.

19 Q. Mr. Burch, answer my question.

20 THE COURT: Mr. Burch, listen, he asked a
21 simple question --

22 A. I didn't push him. I didn't threaten him.

23 THE COURT: Answer his questions like that
24 and we'll get through this a lot quicker. Listen to him
25 and answer his questions.

1 Q. Did you threaten to whop his ass?

2 A. I ain't able to whop his ass and I didn't
3 threaten to whop his ass.

4 Q. Did you tell him you were going to knock the
5 hell out of him?

6 A. No. That's his -- his say so on that.

7 Q. Did you have a watch on that night?

8 A. Yes. They broke it and tore it off.

9 Q. Which hand?

10 A. Broke the band, a \$20 band.

11 Q. Who is "they"?

12 A. Him and that jailer right there, that was at
13 the front window when we got down there.

14 Q. So you went to bed that night in your
15 underwear and your watch; is that correct?

16 A. Right.

17 Q. So when you got up, you didn't put anything
18 on, correct?

19 A. I walked in the living room with my
20 underwear and watch on.

21 Q. Did you happen to look at your watch as you
22 were coming down the hall?

23 A. I seen him and I stalled.

24 Q. So you didn't look at your watch, right?

25 A. I didn't look at my watch.

1 Q. Did you look at any clock in the living
2 room?

3 A. I looked at him and then I said, "Oh, my
4 past has come back to haunt me," and hit me in the face
5 with that and -- after you get sprayed in the face with
6 that, you're not going to see no clock, no watch.

7 Q. Before you got sprayed, did you look at a
8 clock?

9 A. Nun-uh. I done been asleep when he got in
10 there hollering and screaming.

11 Q. Sir, it's a simple question. Did you look
12 at a clock before you got sprayed?

13 A. I didn't look at a clock before he sprayed
14 me.

15 MR. PIAZZA: He's answered the question.
16 He's asked it about three or four times. He's
17 answered it.

18 THE COURT: He qualifies it every time.
19 It's kind of hard to follow what he's saying.

20 A. I didn't look at the clock.

21 Q. At some point in time Deputy Ingle placed
22 you in handcuffs, correct?

23 A. (Witness nods head.)

24 THE COURT: Now you're doing better, but
25 say it where this lady can write it down. That nod

1 would be yes.

2 THE WITNESS: Okay.

3 THE COURT: Well, answer his questions.

4 Q. Were you placed in handcuffs?

5 A. Yes.

6 Q. And it was your testimony that he handcuffed
7 you behind your back; is that correct?

8 A. That is correct.

9 Q. When he placed the handcuffs on you, were
10 you standing up or were you on the floor?

11 A. I was standing up.

12 Q. Did you cooperate with him?

13 A. Yes.

14 Q. And then he took you outside the trailer,
15 correct?

16 A. Threw me.

17 Q. And put you in the car?

18 A. Not yet. He threw me back in the house.

19 Q. That's when you got a coat; is that right?

20 A. Patsy got a pair of pants on me and she
21 threw a t-shirt on me.

22 Q. Back outside the trailer.

23 A. Threw me back out again, pushing me down
24 all the way to the car. About 35 feet of pushing me
25 down, told me to get in the car. I couldn't see how to

1 get in no car.

2 Q. And while he's pushing you, he's still
3 continuing to spray you with the spray?

4 A. Correct. It's all over the driveway.

5 Q. And he put you in the car at that point?

6 A. Got me in the car.

7 Q. Did you cooperate with him getting you in
8 the car?

9 A. I couldn't help but cooperate with him
10 getting me in the car.

11 Q. Do you remember him putting his hand on your
12 head helping your head get inside the car?

13 A. All I remember is him just shoving me in
14 there.

15 Q. Did you hit your head on anything when you
16 were going in there?

17 A. I ain't for sure if I hit my head on
18 anything going in there. I get slung around like a rag
19 doll.

20 Q. And you testified that he did not put a
21 seat belt on you; is that right?

22 A. He did not put a seat belt on me so help me
23 God.

24 Q. And as he's taking you back towards the
25 jail, you said he kept slamming on the brakes and making

1 you hit that screen?

2 A. Yes.

3 Q. What part of your body hit the screen?

4 A. Several parts. Head.

5 Q. Did your face?

6 A. (Witness nods head.)

7 Q. Your forehead?

8 A. Yes.

9 Q. Did you suffer any injuries as a result of
10 that?

11 A. I had some bruises and knots.

12 Q. All right. I refer you back to your
13 pictures that you took and testified to, the day after
14 you were released from jail. I've got two pictures of
15 you here, and both of them show your face pretty good.
16 Show me on there where your bruises are from hitting
17 that screen.

18 A. Well, they're mostly in my hairline on top
19 of my head. See, I was like that (indicating). I got
20 it this way and I got it that way. In my hairline there
21 were knots and bruises but you would have to, you know,
22 sit down and look through my hair to see it.

23 Q. Now, you just testified, though, a minute
24 ago that your face hit the screen too.

25 A. My face hit the screen too.

1 Q. But there's no marks on the pictures are
2 there?

3 A. Take a good close look right there and right
4 above my eyebrow. And my brain was not etched up in
5 a -- looks like attention. My face is just as plain and
6 relaxed as can be. Can you not see the red on my face
7 right there? And under that eye right there and under
8 this eye (indicating)?

9 Q. I tell you what, we'll let the Board decide.
10 Do you remember telling Deputy Ingle while you were in
11 the car that you were going to get out of this?

12 A. No, never said a word in the car to him at
13 all.

14 Q. Never said a word while you were in the car?

15 A. Two words.

16 Q. What were those two words?

17 A. Or maybe three. I said, "You couldn't hurt
18 a fly." Every time he tried to hurt me, he'd laugh,
19 "Ha, ha, did that hurt?" And about two times, I tell
20 him, "You couldn't hurt a fly." I've been hurt bad.
21 I've been through a bunch of pain and stuff, but I
22 wasn't about to tell him that he had hurt me, if he had
23 killed me.

24 Q. Did you yell at him?

25 A. He had it in his mind to kill me anyhow.

1 Q. Did you yell at him?

2 A. No, never did raise my voice.

3 Q. Now, you were charged that night with
4 disorderly conduct and resisting arrest, correct?

5 A. At home asleep in my bed charged with
6 disorderly conduct.

7 Q. And resisting arrest.

8 A. Yes.

9 Q. You haven't gone to trial on those charges
10 yet, have you?

11 A. Trying to get this mess dealt with, and
12 that's all I can tell you.

13 Q. It's been continued several times; is that
14 correct?

15 A. Uh-huh.

16 Q. I need you to answer out loud so the court
17 reporter can take it down.

18 All right. I think you also testified
19 earlier that you heard someone call and ask Deputy Ingle
20 what was taking him so long; is that right?

21 A. On the radio when he was trying to drag me
22 out of the back of the car.

23 Q. Was it a male or a female calling?

24 A. It was a woman.

25 Q. It was a woman.

1 A. I was a dispatcher for three years. I know
2 something about dispatching, or two and a half years.
3 He had to call back in right then. They wanted to know
4 how long -- how come it was taking him so long to get to
5 the jail house. He said he run into traffic. There was
6 no traffic on that back road. He was going to make it
7 look like I escaped and then pop a cap in me.

8 Q. He didn't shoot you, though, did he?

9 A. He would have if he got me out of the car
10 and I done my handcuffs, he shot me. I knew this
11 because he had a buddy he practiced with. Dan Tucker
12 shot a man -- one of his buddies, Dan Tucker, shot and
13 killed, and didn't ask him. His own buddy. They had a
14 kung fu shop together, was working together and he shot
15 and killed, a mental case.

16 Q. When you got to the jail, did you tell
17 anybody at the jail that Deputy Ingle had abused you?

18 A. Oh, yes.

19 Q. Who did you tell?

20 A. When I got the opportunity.

21 Q. Who did you tell?

22 A. I told the nurse. I told Lonny I wanted to
23 know what I was in there for, couldn't figure out what I
24 was in there for, until John Mark got back on Tuesday
25 the 16th. And he said, you look rough, so he got the

1 nurse.

2 Q. So you told the Sheriff; is that right?

3 A. I didn't -- I didn't get in contact with
4 John Mark. My brother left a message with John Mark's
5 secretary for John Mark to call my brother back. He
6 wanted me checked on to see if I was beat up before they
7 let me out of jail.

8 Q. Let me see if I can maybe help just a little
9 bit. What I'm looking to see is when you got to the
10 jail on the morning of the 16th, you testified that you
11 told the nurse.

12 A. I didn't get to see the nurse till the next
13 morning when Lonny Devito came on.

14 Q. Okay. But that still would have been the
15 16th, correct?

16 A. Yes, that would have been the 16th.

17 Q. Because all this happened on the morning of
18 the 16th, the early morning hours, right?

19 A. True. The nurse got to come see me around
20 9:00 o'clock I guess. I couldn't see the watch. When
21 Lonny come on checking prisoners, he opened my door and
22 he thought I was dead because I was balled up in a ball.

23 Q. Did you tell Mr. Devito about what had
24 happened with Deputy Ingle?

25 A. Yes.

1 Q. What did you tell him happened?

2 A. I told him the same thing I've been telling
3 all of y'all; he come to check out a call and come
4 hollering and screaming in my house. He was not
5 invited.

6 Q. Let's not go back through it. You told Mr.
7 Devito everything that you had testified to tonight?

8 A. My wife asked him to leave three or four
9 times.

10 Q. Mr. Burch, I'm just asking you what you told
11 Mr. Devito, and I think you said that you told him
12 everything you testified to here, right?

13 A. You need to see the nurse. He went and got
14 the nurse.

15 Q. And then you told the nurse, right?

16 A. I didn't have to tell the nurse. She looked
17 at me --

18 THE COURT: Mr. Burch, look, you run these
19 answers way out real long and they're not really
20 responsive. Listen to his question and try to
21 answer the best you can.

22 A. I try to answer the best I can.

23 Q. Did you tell Nurse Gold what Deputy Ingle
24 supposedly did to you?

25 A. That's correct.

1 Q. So we've got Nurse Gold and we've got Mr.
2 Devito. Did you tell anybody else on the morning of the
3 16th what you claim Deputy Ingle did to you?

4 A. I decided to keep my mouth shut, and she
5 decided I needed to see the doctor. She let me go see
6 the doctor and they put me back in there until I got
7 bonded out.

8 Q. Okay. How long does it take you to get from
9 your house to the jail when you drive it?

10 A. Probably around -- having to go a little cut
11 off to get to -- what do you call it?

12 Q. Just how long?

13 A. Fourteen minutes.

14 Q. Fourteen minutes. Now, you testified at
15 length that you had a little bit of a history with
16 Deputy Ingle.

17 A. A whole bunch.

18 Q. I want to ask you, have you ever had any
19 kind of a history like that with Charlie Skalnik?

20 A. I don't know no Charlie Skalnik.

21 Q. What about Ms. Chapman that works at the
22 jail, ever had any problems like that with her?

23 A. I don't know Ms. Chapman.

24 Q. What about Joey Darty, did you have any
25 problems like that --

1 A. That nurse?

2 Q. You don't recognize the name?

3 A. The first time I ever met him I was naked.

4 Q. Nurse Gold, have you had any kind of history
5 with her, negative history?

6 A. Never seen her before in my life until then.

7 Q. Donald Shuggart, ever had any kind of
8 negative history with him?

9 A. Unless he was one -- that jailer having fun
10 with me.

11 Q. I'm not asking you about that night. I'm
12 talking about any time before that.

13 A. I don't know that man's name.

14 Q. All right. I'm curious about something that
15 you testified to earlier when you said that the
16 Sheriff's Department knew that they shouldn't have sent
17 Deputy Ingle to your house.

18 A. Correct.

19 Q. How should they have known that?

20 A. He should have told them I had problems in
21 the past with him, and if there was another officer on,
22 he should have sent another officer.

23 Q. You're confusing me with your pronouns here.
24 Which he are you talking about?

25 A. He done had in his head he was going to do

1 what he was going to do, because my brother Gene told me
2 that. He said, "Your buddy got a job with the county.
3 He get a chance, Taz, he's going to beat you up, going
4 to hurt you." He was right.

5 Q. Mr. Burch, how would the Sheriff's
6 Department know about your history with Mr. Ingle?

7 A. John Mark didn't put him up to doing this.
8 John Mark didn't even know what he was doing. He was
9 out doing what he wanted to do or what he was suppose to
10 do, but he took it on his own to do this, and he should
11 not have done that. I'm sure John Mark -- I've been to
12 school with John Mark. John Mark is a good man. John
13 Mark did not put him up to do it, and if there's another
14 deputy on sheriff, he knows we had problems in the past.
15 He should have sent another deputy out there.

16 Q. So just make sure I understand correctly.
17 What you meant by that was Deputy Ingle should have told
18 the Sheriff's Department about his previous dealings
19 with you; is that right?

20 A. That's correct. He should have sent
21 somebody else out there, not him, and we wouldn't be
22 here today.

23 Q. Mr. Burch, how many times have you been
24 convicted of a crime?

25 A. What kind of crimes are you talking about?

1 Q. Any crime. Let's exclude traffic tickets.

2 A. One public intoxication, one U.P.P.B., but
3 it wasn't mine. The man that was driving the truck, it
4 belonged to him.

5 Q. What's a U.P.P.B.?

6 A. U.P.P.B. is unlawful possession of beer. He
7 had two cans of beer in his truck. They took both of us
8 to jail because it was his beer, not mine. They jerked
9 me out of that vehicle I don't know how many times and
10 took me to jail.

11 Q. I'm not asking you about the specifics
12 yet. We've got one public intox. We've got an unlawful
13 possession of a prohibited beverage. You have to
14 forgive me, I'm not from a dry county.

15 A. And on another arrest put me in there --
16 come and get me, come and get me, come and get me, come
17 and get me. I called trying to get the farm moved. I'm
18 going to jail because it was his wife. His mother and
19 daddy got on my property. They couldn't get the farm
20 moved, but the Judge requested I move. I've been there
21 a lot longer than they have, and I had to move out of
22 town.

23 Q. Have you ever been convicted of carrying a
24 concealed weapon?

25 A. (Witness shakes head.)

1 Q. I need you to answer out loud, sir.

2 A. Never been convicted of carrying a
3 concealed weapon.

4 Q. On April the 18th of 1995 you were not
5 convicted of carrying a concealed weapon?

6 A. I never was charged with it, but that's the
7 way I'm supposed to carry it, concealed. I ain't
8 suppose to have it on my side. I'm supposed to carry it
9 concealed.

10 THE COURT: Let's take just a short break.
11 (Short recess.)

12 Q. I've got one more area, Mr. Burch, and then
13 I'll stop for the night. When you got to the jail --
14 let me back up.

15 You've been booked into the Walker County
16 jail before, correct?

17 A. Correct.

18 Q. And you know the procedures for booking
19 folks into the jail, correct?

20 A. Correct.

21 Q. Did you go through that procedure on the
22 morning of February 16?

23 A. Nope.

24 Q. You don't recall anybody asking you any
25 questions about your Social Security number for example?

1 A. I didn't have an ID on me.

2 Q. Did anybody ask you what your Social
3 Security number was?

4 A. No.

5 Q. Did anybody ask you about your medical
6 condition?

7 A. No.

8 Q. When you spoke with Nurse Gold, did you
9 complain to her about your middle finger on your right
10 hand?

11 A. Yes.

12 Q. Did you complain to her about that?

13 A. Yes.

14 Q. Did you complain to her about your thumb on
15 your right hand?

16 A. Not necessarily.

17 Q. Not necessarily?

18 A. I didn't complain about my thumb.

19 Q. You did not complain about your thumb to
20 Nurse Gold?

21 A. Right.

22 Q. I've got one last question for you, Mr.
23 Burch. Would you object to signing a medical release so
24 the Board can take a look at your previous medical
25 records?

1 MR. PIAZZA: I'm going to object to that
2 because they're not relevant.

3 MR. WILLFORD: Whether he had a previous
4 injury I think is very relevant. They've got his
5 post-injury records.

6 MR. PIAZZA: We've got the pre-injury
7 records too.

8 MR. WILLFORD: We would like to see those.

9 THE COURT: Have the pre-injury records
10 been introduced?

11 MR. WILLFORD: I don't think they have been.

12 MR. PIAZZA: I don't think I have those
13 with me. I'll be happy to share them if I do.

14 MR. WILLFORD: What we're interested in
15 here is -- I mean, he's listed a large number of
16 doctors; we've got Carraway, we've got that
17 questionable x-ray, and I think the records from
18 that visit would be very relevant for the Board to
19 review.

20 THE WITNESS: The records is in there. We
21 got a paper to come with that x-ray. It's in that
22 file.

23 MR. PIAZZA: I stand corrected, I don't --

24 MR. WILLFORD: You don't have those?

25 MR. PIAZZA: I thought I did.

1 Q. Mr. Burch, do you go to a methadone clinic?

2 A. I wouldn't go to a methadone clinic ever.

3 MR. WILLFORD: That's all I have.

4 MR. PIAZZA: I've got a few follow-up
5 questions and that's it.

6 REDIRECT EXAMINATION

7 BY MR. PIAZZA:

8 Q. The people, the names that he mentioned,
9 Skalnik, Chapman, Darty --

10 MR. PIAZZA: And what was the last one?

11 MR. WILLFORD: Shuggart.

12 MR. PIAZZA: How do you spell that?

13 MR. WILLFORD: S-h-u-g-g-a-r-t.

14 Q. You've never heard of these people, you
15 don't know them?

16 A. I never heard of them before in my life.

17 Q. Your wife told Officer Ingle to leave how
18 many times?

19 A. Four or five or six times.

20 Q. Was this after you got up?

21 A. This was while I was still in bed and she
22 went outside to meet him and told him -- asked him to
23 leave.

24 Q. So you could hear what was going on from
25 your bedroom?

1 A. No I couldn't hear what was going on.

2 Q. She told you she said that?

3 A. Yes. She asked him to leave and he didn't
4 ask her could he come in.

5 Q. I'll get that testimony from her.

6 You never told him you were going to whip
7 his ass or knock the hell out of him when he was in your
8 house?

9 A. No.

10 Q. Did you tell Mr. Ingle to leave your home?

11 A. My wife advised him to leave my house.

12 Q. After you got up did you tell him to leave?

13 A. I didn't have time to tell him nothing.

14 MR. PIAZZA: That's all I have.

15 THE COURT: Mr. Burch, you can step down.

16 SONYA GOLD

17 called on behalf of the grievant, having been
18 duly sworn by the Judge, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. PIAZZA:

22 Q. Ms. Gold, would you please state where
23 you're employed?

24 A. Where I'm employed at?

25 Q. Yes, ma'am.

1 A. I work at the Walker County Sheriff's
2 Department.

3 Q. And what position are you employed there?

4 A. It's a contract labor type.

5 Q. Okay.

6 A. I'm not employed for the Sheriff's
7 Department. I work for Gold Medical Services.

8 Q. So you are not an employee of the county --

9 A. No.

10 Q. -- or the Sheriff's Department?

11 A. No.

12 Q. How long have you been in that position?
13 And you work there as an RN or nurse?

14 A. LPN. I've been there six years.

15 Q. And tell me and tell the Board what your
16 responsibilities are in regard to that position.

17 A. My responsibilities at the jail is to
18 administer medical care.

19 Q. Could you please speak up a little bit?

20 A. To administer medical care to the inmates.
21 Basically when inmates enter our facility if they have a
22 problem, I triage the patient. If they have medications
23 or need to see a doctor, we have a doctor that's on
24 staff 24 hours and he physically comes to the jail twice
25 a week and he sees the inmates that have requested to be

1 seen. We administer the -- I administer the medications
2 twice a day at the jail. I'm physically there 5:30 in
3 the morning until roughly 9:00 or 10:00 in the morning,
4 and this is administering the morning medications and
5 seeing those who request to see a nurse or needs to be
6 seen. Then throughout the day I'm on call, and if the
7 officers have a complaint from an inmate or anything or
8 they need to see a nurse or have a question concerning
9 an inmate, they call me and I respond to their situation
10 as needed.

11 Then I return back to the jail approximately
12 about 4:30 or 5:00 that afternoon and we do an evening
13 pill call administration.

14 Q. How did you characterize that?

15 A. We do -- we label it as pill call. We
16 administer their evening medication, and we call it a
17 pill call. And we usually finish up around 8:00 or 8:30
18 and then I will see the inmates that request to be seen
19 and so forth, and then I'm on call throughout the night
20 if they need me.

21 Q. Okay. Thank you. Let me ask you this:
22 Have you ever met Mr. Taz Burch?

23 A. I have met Tommy Barron, who is also known
24 as Taz now. I was not familiar with the Taz, the new
25 name.